

OCT 07 2008

Doc Code: AP.PRE.REQ

PTO/SB/33 (09-08)

Approved for use through 10/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 15662	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>OCTOBER 7, 2008</u> Signature <u>William J. Clemens</u> Typed or printed name <u>WILLIAM J. CLEMENS</u>		Application Number 09/940,117 Filed August 28, 2001 First Named Inventor Robibero Art Unit 3622 Examiner J. Van Bramer	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>26,855</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		Signature <u>William J. Clemens</u> Typed or printed name William J. Clemens Telephone number 248-960-2100 Date October 7, 2008	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OCT 07 2008

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted
to the Commissioner for Patents on:

OCTOBER 7, 2008
Date of signature and transmission

By William J. Clemens
William J. Clemens

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ROBIBERO)	Group Art Unit: 3622
)	
Serial No.: 09/940,117)	Examiner: J. Van Bramer
)	
Filed: August 28, 2001)	Attorney Docket: 15662
)	
For: APPARATUS AND METHOD FOR USING EQUIPMENT REMOTE ...)	Confirmation No.: 3920

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Honorable Sir:

Review of the above-identified application is requested for the following reasons:

1. In the Final Office Action (FOA) dated July 8, the Examiner maintained the rejection of Claims 36 and 37 under 35 U.S.C. 112, second paragraph. (FOA Page 2)
2. Claims 18 and 35 recite that the operating parameters include "at least one of a usage parameter, an environmental parameter and mechanical deterioration". Claims 37 and 36 depend from Claims 18 and 35 respectively and recite that the operating parameters include "said usage parameter" and further define the usage parameter. Applicant submits that the wording of Claims 36 and 37 meets the requirements of 35 U.S.C. 112, second paragraph.
3. The Examiner rejected Claims 18-27, 37 and 39 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner stated that Amended independent Claim 18 recites an input means located at and connected to an installation. However, the Examiner cannot locate, in the Applicant's specification, an input

15662

means that is required to be located at an installation. Instead, the Examiner finds that Page 7, lines 8-30 of the Applicant's specification specifically discloses an input means which is remotely located. (FOA Page 3)

4. The 'input means' recited in Claim 18 includes the remote monitor interface 14 installed with the equipment system 12 such as an elevator system or an escalator system. (Specification Page 6, Line 21 through Page 7, Line 5; Fig. 1; Claim 24)

5. The Examiner rejected Claims 38 and 39 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner stated that independent Claims 35 and 18 do not require that an environmental parameter be present and without a requirement that the environmental parameter be present the dependent claims fail to further limit the parent claim. (FOA Pages 3-4)

6. Claims 18 and 35 recite that the operating parameters include "at least one of a usage parameter, an environmental parameter and mechanical deterioration". Claims 39 and 38 depend from Claims 18 and 35 respectively and recite that the operating parameters include "said environmental parameter" and further define the environmental parameter. Applicant submits that the wording of Claims 38 and 39 meets the requirements of 35 U.S.C. 112, second paragraph.

7. The Examiner rejected Claims 18-20 and 22-39 under 35 U.S.C. 103(a) as being unpatentable over Gronemeyer et al. (US 6363359) in view of Ives et al. ("After the Sale: Leveraging Maintenance with Information Technology"). (FOA Page 4)

8. Applicant's Claim 18 recites that the input means is located at the elevator or escalator installation. The Examiner refers to Gronemeyer (Col. 2, Lines 51-57; and Col. 3, Line 11 through Col. 4, Line 24) as including such an input means (FOA Pages 4-5) which could be the forms, the human interface for electing the information to send, and the sentinel (FOA Pages 17-18). However, none of these "input devices" receives dynamic parametric information as recited in Claim 18. (March 13, 2008 Amendment, Pages 16-17)


Claims 18 and 35 recite that the dynamic parametric data information is suitable for service purposes. As explained on Page 6, Lines 20-32 of Applicant's specification, the parametric data represents the process operating conditions of the customer equipment.

Therefore, it is dynamic data that is subject to changes as the customer installation being monitored is operated. In contrast, Gronemeyer (Col. 2, Lines 41-65) discloses that the server interacts with a sentinel that resides on the client computing device. The sentinel is responsible for inspecting the client computing device and for determining the needed goods (software or hardware) based on the static configuration data of the inspected device. The configuration of the currently installed hardware and software is not changing during operation of the client computing device. Also note that the Gronemeyer sentinel is queried only when the client web browser contacts a web site of a provider of goods or services. (Fig. 1; Step 56) Thus, the server receives only the static data in the log file at the time of the query.

9. The Examiner rejected Claim 21 under 35 U.S.C. 103(a) as being unpatentable over Gronemeyer et al. (US 6363359) in view of Ives et al. ("After the Sale: Leveraging Maintenance with Information Technology") further in view of Palme et al. (RFC 2557, MIME Encapsulation of Aggregate Documents, such as HTML). (FOA Pages 16-17)

10. Claim 21 recites that the web server generates the sales offer as an e-mail message for transmission to the customer. Ives (Page 13, Col. 1, Lines 3-19) merely states that Otis Elevator has begun equipping elevators with self-diagnostic control systems that automatically notify OTIS when maintenance is required. No details about the system are given. The combination of Gronemeyer and Ives teaches an offering system for computers and spare parts used in elevator systems whereas the need for replacement is based on static data and not on generated dynamic parametric data. Palme describes MIME formatted messages for transmission of complete multi-resource HTML multimedia documents and does not provide the missing claimed subject matter.

Respectfully submitted,


William J. Clemens, Reg. No. 26,855
(248) 960-2100

Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, Ohio 43551-4163
419-874-1100
419-874-1130 (FAX)

15662